

**Plant Protection and Quarantine.** The Plant Protection and Quarantine program of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

**Quarantined area.** Any State, or any portion of a State, listed in §301.99-3(c) or otherwise designated as a quarantined area in accordance with §301.99-3(b).

**Regulated article.** Any article listed in §301.99-2 or otherwise designated as a regulated article in accordance with §301.99-2(d).

**Sapote fruit fly.** The insect known as the sapote fruit fly, *Anastrepha serpentina*, in any stage of development.

**State.** The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

#### § 301.99-2 Regulated articles.

The following are regulated articles:

- (a) Sapote fruit flies.<sup>2</sup>
- (b) The following fruits and vegetables:

Abiu (*Pouteria caimito*)  
 Apple (*Malus domestica*)  
 Avocado (*Persea americana*)  
 Black sapote (*Diospyros digyna*)  
 Citrus (*Citrus* spp.)  
 Egg-fruit tree (*Pouteria campechiana*)  
 Green sapote (*Pouteria viridis*)  
 Guava (*Psidium guajava*)  
 Hog-plum (*Spondias mombin*)  
 Ketembilla (*Dovyalis hebecarpa*)  
 Lucmo (*Pouteria obovata*)  
 Mammy apple (*Mammea americana*)  
 Mango (*Mangifera indica*)  
 Nance (*Byrsonima crassifolia*)  
 Panama orange (*Citrofortunella x mitis*)  
 Peach (*Prunus persica*)  
 Pear (*Pyrus communis*)  
 Pond-apple (*Annona glabra*)  
 Quince (*Cydonia oblonga*)  
 Red mombin (*Spondias purpurea*)  
 Sapodilla (*Manilkara zapota*)  
 Sapote (*Diospyros* spp.)  
 Star-apple (*Chrysophyllum Cainito*)

Any fruits or vegetables that are not canned or dried or frozen below -17.8 °C. (0 °F.).

- (c) Soil within the dripline of plants that are producing or have produced

the fruits or vegetables listed in paragraph (b) of this section.

- (d) Any other product, article, or means of conveyance not listed in paragraphs (a) through (c) of this section that an inspector determines presents a risk of spreading the sapote fruit fly, after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

#### § 301.99-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which the sapote fruit fly has been found by an inspector, in which the Administrator has reason to believe that the sapote fruit fly is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which the sapote fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of the sapote fruit fly.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, the area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector.

<sup>2</sup>Permit and other requirements for the interstate movement of sapote fruit flies are contained in part 330 of this chapter.

The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas: There are no areas in the continental United States quarantined for the sapote fruit fly.

[68 FR 24610, May 8, 2003, as amended at 68 FR 43286, July 22, 2003]

**§ 301.99-4 Conditions governing the interstate movement of regulated articles from quarantined areas.**

Any regulated article may be moved interstate from a quarantined area<sup>3</sup> only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.99-5 and 301.99-8;

(b) Without a certificate or limited permit if:

(1) The regulated article originated outside the quarantined area and is either moved in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by sapote fruit flies (such as canvas, plastic, or other closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill, and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area; and

(3) The regulated article is moved through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs.

(c) Without a certificate or limited permit if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a departmental permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the departmental permit and found by the Administrator to be adequate to pre-

vent the spread of the sapote fruit fly; and

(4) With a tag or label bearing the number of the departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container.

(Approved by the Office of Management and Budget under control number 0579-0222)

**§ 301.99-5 Issuance and cancellation of certificates and limited permits.**

(a) A certificate may be issued by an inspector<sup>4</sup> for the interstate movement of a regulated article if the inspector determines that:

(1)(i) The regulated article has been treated under the direction of an inspector in accordance with § 301.99-10; or

(ii) Based on inspection of the premises of origin, the premises are free from the sapote fruit fly; or

(iii) Based on inspection of the regulated article, the regulated article is free of sapote fruit flies; and

(2) The regulated article will be moved through the quarantined area in an enclosed vehicle or will be completely enclosed by a covering adequate to prevent access by the sapote fruit fly; and

(3) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>5</sup> to prevent the spread of the sapote fruit fly; and

<sup>4</sup>Services of an inspector may be requested by contacting local offices of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices may also be obtained from the McAllen Work Station, Federal Building Suite 119, 320 North Main, McAllen, TX 78501-4699, or the APHIS Web site at <http://www.aphis.usda.gov/travel/aqi.html>.

<sup>5</sup>Section 414 of the Plant Protection Act (7 U.S.C. 7714) provides that the Secretary of Agriculture may, under certain conditions, hold, seize, quarantine, treat, apply other remedial measures to destroy or otherwise dispose of any plant, plant pest, plant product, article, or means of conveyance that is moving, or has moved into or through the United

<sup>3</sup>Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.